

Marvin Mathis, 304144/0244859C
New Jersey State Prison
P.O. Box 861
Trenton, New Jersey 08625

April 26, 2001

Ms. Elaine Mai,
Criminal Motions Clerk
Union County Courthouse Annex
Elizabethtown Plaza
Elizabeth, New Jersey 07202

Re: State v. Marvin Mathis
Ind. No. 97-01-00123
Petition for Post Conviction Relief

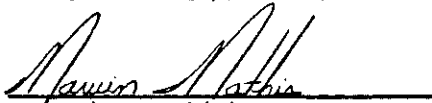
Dear Clerk,

Enclosed in the amount of one original and three copies, please find my Petition for Post Conviction Relief with attached supporting documents for filing with the court. Consistent with my attached proof of service, I have also served copies of these documents on the Union County Prosecutor and the Office of the Public Defender, Appellate Section. A brief in support of this petition is currently being prepared and at the time of this filing incomplete.

Also find a S.A.S.E. and an extra copy of this cover letter for your marking "filed" and return to me for my files.

I thank you in advance for your anticipated assistance in this matter and if I can be of any further assistance please contact me at your earliest convenience.

Very truly yours,


Marvin Mathis

MM/eld
cc. Union County Prosecutor
Office of the Public Defender
file

Marvin Mathis, 304144/0244859C
New Jersey State Prison
P.O. Box 861
Trenton, New Jersey 08625
Presently Confined

STATE OF NEW JERSEY

Plaintiff

vs.

MARVIN MATHIS

Defendant

SUPERIOR COURT OF NEW JERSEY
Law Division - Union County
Ind. No. 97-01-00123

CRIMINAL ACTION

NOTICE OF MOTION AND PETITION

TO: Thomas V. Manahan
Union County Prosecutor
Union County Superior Court Building
Elizabeth, New Jersey 07202

PLEASE TAKE NOTICE that the undersigned petitioner, Marvin Mathis, shall move on the _____ day of _____ 2001, or as soon thereafter as he can be heard, before the Honorable Judge John F. Malone, J.S.C., at the Union County Superior Court Building located in Elizabeth, New Jersey seeking an order granting the following relief:

1. An Order Granting Indigency Status and for the Assignment of Counsel;
2. An Order Granting an Evidentiary Hearing;
3. An Order Seeking Petitioner's Presence at the Hearing;
4. An Order granting Petitioner Permission to Present Witnesses at the Hearing.

ALSO TAKE NOTICE that upon disposal of the above referenced motions, petitioner shall move before the Court for Post

Conviction Relief vacating his convictions as being obtained in violation of the United States Constitution for the reasons provided in his pro se memorandum and in any subsequently filed by assigned counsel.

Dated: April 26, 2001


Marvin Mathis, pro se

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STATE OF NEW JERSEY

Plaintiff

vs.

MARVIN MATHIS

Defendant

SUPERIOR COURT OF NEW JERSEY
Law Division - Union County
Ind. No. 97-01-00123

CRIMINAL ACTION

CERTIFICATION OF CONTINUED
INDIGENCY.

I, Marvin Mathis hereby certify the following:

1. I am the defendant in the above captioned action.
2. During all previous proceedings, I have been represented by the Office of the Public Defender and prior to this assignment I was declared indigent by the Union County Administrative Office of the Court.
3. My status as an indigent has not changed.
4. I own no monies, property or anything of value that would enable me to pay the cost of filing fees.

I certify that the foregoing statements made by me are true and understand that if they are found to be willfully false, I am subject to punishment.

Dated: April 26, 2001


Marvin Mathis, pro se

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STATE OF NEW JERSEY

Plaintiff

vs.

MARVIN MATHIS

Defendant

SUPERIOR COURT OF NEW JERSEY
Law Division - Union County
Ind. No. 97-01-00123

CRIMINAL ACTION

PROPOSED ORDER

This matter having been presented to the Court on
petitioner's application for relief, and with this court having
considered the moving papers and finding that good cause exist;

It is on this _____ day of _____ 2001, ordered
that petitioner's Motion for the assignment of counsel; request
for a evidentiary hearing; request to be present at the hearing;
and request to present witnesses at the hearing is hereby:

DENIED _____

GRANTED _____

Superior Court Judge

Marvin Mathis, 304144/0244859C
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STATE OF NEW JERSEY

Plaintiff

vs.

MARVIN MATHIS

Defendant

SUPERIOR COURT OF NEW JERSEY
Law Division - Union County
Ind. No. 97-01-00123

CRIMINAL ACTION

VERIFIED PETITION FOR POST
CONVICTION RELIEF.

In Indictment No. 97-01-00123, the Union County Grand Jury charged petitioner, Marvin Mathis, with Murder, contrary to N.J.S.A. 2C:11-3a(1) and/or (2)(count one); first degree robbery, contrary N.J.S.A. 2C:15-1 (count two); first degree felony murder, contrary to N.J.S.A. 2C:11-3a(3); possession of a weapon for an unlawful purpose, contrary to N.J.S.A. 2C:39-4d (count four); and unlawful possession of a weapon contrary to N.J.S.A. 2C:39-5d (count five).

Following an unsuccessful Miranda motion before the Honorable John F. Malone, J.S.C. on June 9 and 10, 1998, Petitioner was tried before Judge Malone and a jury on June 10, 11, 16, 17, and 18th 1998. Petitioner was found guilty of all charges.

On August 14, 1998, the court sentenced Mathis to an aggregate term of 50 years in prison, with a parole bar of 30 years. The appropriate statutory penalties were imposed, and Mathis was given credit of 934 days for time spent in custody.

By order of March 15, 1999, the appellate court granted petitioners motion to file his Notice of Appeal Nunc Pro Tunc.

A Notice of Appeal was subsequently filed and docketed A-3316-98T4.

A brief was subsequently prepared on petitioner's behalf raising the following points of contention:

THE DECISION OF THE FAMILY PART JUDGE TO WAIVE JUVENILE JURISDICTION OVER MARVIN MATHIS CONSTITUTED A CLEAR ERROR OF JUDGEMENT AND SHOULD BE REVERSED.

DEFENDANT'S CONVICTION MUST BE REVERSED DUE TO THE IMPROPER ADMISSION OF HEARSAY EVIDENCE THAT HIS GIRLFRIEND WAS ACCOSTED ON THE STREET BY A MAN WHO TOLD HER THAT DEFENDANT HAD KILLED SOMEONE. SUCH EVIDENCE VIOLATED DEFENDANTS FEDERAL AND STATE CONSTITUTIONAL RIGHTS TO CONFRONTATION. U.S. Const.,

DEFENDANTS CONVICTION MUST BE REVERSED DUE TO ACTS OF PROSECUTORIAL MISCONDUCT, WHICH INCLUDED REFERRING TO DEFENDANT AS A THUG AND COMMENTING ON FACTORS OUTSIDE OF THE RECORD.

THE BASE TERM OF FIFTY YEARS IMPRISONMENT IS EXCESSIVE AND SHOULD BE MODIFIED BY THIS COURT

On June 2, 2000, the Appellate Division affirmed petitioner's conviction. A Petition for Certification was subsequently filed with the State Supreme Court and denied on October 11, 2000.

I certify that the foregoing statements made by me are true and understand that if they are found to be willfully false, I am subject to punishment.

Dated: April 26, 2001


Marvin Mathis, pro se

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STATE OF NEW JERSEY

Plaintiff

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Defendant

SUPERIOR COURT OF NEW JERSEY
Law Division - Union County
Ind. No. 97-01-00123

CRIMINAL ACTION

PROOF OF SERVICE

I, Marvin Mathis hereby certify that on the below listed dated I mailed via regular institutional mail, two copies of my Petition for Post Conviction Relief, Verified Petition and attached documents to: Thomas V. Manahan, Union County Prosecutor, Union County Superior Court Building, Elizabeth, New Jersey 07202.

I also affirm that I mailed one copy of these documents to the Essex County Public Defender's Office, Appellate Section 31 Clinton Street, Newark, New Jersey 07102.

I certify that the foregoing statement made by me are true and understand that if they are found to be willfully false, I am subject to punishment.

Dated: April 26, 2001


Marvin Mathis, pro se